The above amendment is made in response to the Office Action mailed April 20, 2006. Claims 1-6, and 8-9 are pending in the present application and stand rejected. Claims 1, 3, 4, and 8-9 have been amended. The Examiner's reconsideration is respectfully requested in view of the following remarks.

Prelude

At the outset, it should be noted that Applicants strongly disagree with the Examiner's assertions on page 2 of the Office Action. For instance, the Appeal Brief clearly explains, not merely alleges, how Lonnroth fails to teach the claimed inventions (See pages 6-16). Moreover, Section 5, Summary of the Claimed Subject Matter in the Appeal Brief, shows support for the claimed inventions by Appellant's specification.

Drawing Objections – 37 CFR 1.83(a)

In paragraph 3, the Examiner stated that the drawings do not show the *"device-platform interface sending the XML requests to a platform kernel section via HTTP protocol."* This assertion is incorrect because all of these elements are shown in FIG. 1. The "device-platform interface" is defined in page 6, lines 9-11 of the specification to be the same as the "Device Abstraction Layer (DAL)" as illustrated in FIG.1. The "platform kernel" is defined in page 10, lines 15-19 of the specification as comprising "a service engine 101, a runtime monitor 102, profile manager 103, and auxiliary components 104 (such as a security manager 104a, and a billing manager 104b, etc.)", which are clearly

illustrated in FIG. 1. Further, a double sided arrow labeled "XML" between "DAL" and the service engine 102 is illustrated in FIG.1. Since the service engine 102 is part of the "platform kernel" section, FIG. 1 clearly illustrates a "device-platform interface" (DAL) sending the "XML" requests to a "platform kernel" section via HTTP protocol.

The Examiner further stated that the drawings do not show "the platform kernel section providing one of a synchronized and an asynchronized service engine." This assertion is incorrect because these elements are shown in FIG. 1. Additionally, FIG. 1 illustrates a "service engine 101" which as described above, is part of the "platform kernel" section. FIG. 1 further illustrates that the service engine comprises a queue manager and a session manager. The "service engine 101" is described as "providing both a synchronized and asynchronized service engine" on page 10, lines 25-26 of the specification. Claim 4 recites a synchronized service engine providing requests managed by a session (i.e., session manager of service engine 101 in FIG. 1) and asynchronized requests managed by a queue (queue manager of service engine 101 in FIG. 1).

Accordingly, for the reasons discussed above, withdrawal of the objections under 37 CFR 1.83(a) is respectively requested.

Claim Rejections – § 112, first paragraph

Claim 1 stands rejected under 35 U.S.C 112, first paragraph as failing to comply with the written description requirement for the reasons set forth on pages 4-5 of the Office Action.

In assessing whether a specification satisfies the "written description" requirement under 35 U.S.C. 112, first paragraph, with respect to the claimed invention(s), the

fundamental factual inquiry is whether the patent specification describes the claimed invention with *reasonable* clarity such that one of ordinary skill in the art can reasonably conclude that the inventor(s) had possession of the claimed invention as of the filing date of the specification. See *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1563-64 (Fed Cir. 1991). Compliance with the written description requirement is a question of fact which is resolved on a case by case basis. See *Vas-Cath*, 935 F.2d at 1562-63.

An applicant shows possession of the claimed invention by describing the claimed invention with all of its limitations using "such descriptive means as words, structures, figures, diagrams, etc., that fully set forth the claimed invention." *Lockwood v. American Airlines, Inc.* 107 F.3d 1565, 1572 (Fed. Cir. 1997). However, compliance with the written description requirement does not compel use of any particular form of description, so long as the description clearly allows one of ordinary skill in the art to recognize that the applicant invented what is defined by the patent claims. See *In Re Alton*, 76 F.3d 1168, 1172 (Fed. Cir. 1996).

Indeed, it is well established that the subject matter of the claim need not be described literally (i.e., using the same terms or *in haec verba*) in order for the disclosure to satisfy the description requirement. See *Purdue Pharma L.P. v. Faulding Inc.*, 230 F.3d 1320, 1323 (Fed. Cir. 2000). The written description requirement may be met by disclosure that is "inherent" in the specification where a person of ordinary skill in the art would recognize such disclosure upon reviewing the specification. See *Reiffin v. Microsoft Corp.*, 214 F.3d 1342, 1345-46 (Fed. Cir. 2000) (citing *Continental Can Co. USA v. Monsanto Co.*, 948 F.2d 1264, 1268 (Fed. Cir. 1991)). "If a person of ordinary skill in the art would have understood the inventor to have been in possession of the claimed

invention at the time of filing, even if every nuance of the claims is not explicitly described in the specification, then the adequate description is met." *In re Alton*, 76 F.3d at 1175 (see also *Vas-Cath*, 935 F.2d at 1563). Furthermore, information that is well-known in the art need not be described in detail in the specification and the specification need only describe in detail that which is new or not conventional. See *Hybritech, Inc. v. Monoclonal Antibodies, Inc.* 802 F.2d 1367, 1379-80 (Fed. Cir. 1986).

Here, at the very least, the specification as originally filed contains sufficient disclosure, either expressly or inherently, to support the invention of Claim 1 under the "written description" requirement of 35 U.S.C. 112, first paragraph.

In paragraph 6, the Examiner stated that the "*device-platform interface is never actually used anywhere in the applicant's specification other than the Abstract and the claims themselves*" and "*can only be interpreted as the Device Abstraction Layer*". This assertion is incorrect because the "device-platform interface" is used on page 6, line 10 of the specification and is further described on page 6, lines 9-11 of the specification as the Device Abstraction Layer (DAL).

Further in paragraph 6, the Examiner stated that the "*platform kernel section is never used anywhere in the Applicant's disclosure except for the claims*" and "*can only be interpreted as the Kernel Service Engine.*" This assertion is incorrect because the term "*platform kernel*" is used on page 10, line 16 of the specification, and is further described on page 10, lines 15-19 of the specification as comprising, for example elements 101-103 and 104a-b of FIG. 1.

In paragraph 7, the Examiner stated that the "[f]or the Device Abstraction Layer to send XML requests to the Kernel Service Engine via HTTP protocol, as claimed by the

applicant, the Kernel Service Engine would have to include a web server program and the Device Abstraction Layer would have to include a web client program" and "[n]owhere in the applicants specification is there a web server described on the Kernel Service Engine or a web client described in the Device Abstraction Layer". These assertions are incorrect, and based solely on the opinion of the Examiner, but not on what would be known by one of ordinary skill in the art. In fact, FIG. 1 does illustrate a web application server. In any event, claim 1 was amended to remove the phrase "via HTTP protocol" to broaden the claim, as any suitable method or protocol may be used.

Further in paragraph 7, the Examiner stated that since "*there is no hint as to how or even why the HTTP protocol is incorporated*" and "*[s]uch an omission fails to place the public in possession of the applicant's invention*". This assertion is incorrect because, at the very least, it is based on an erroneous standard of law. As described above, the correct the standard of inquiry is whether the patent specification describes the claimed invention with *reasonable* clarity such that one of ordinary skill in the art can reasonably conclude that the inventor(s) had possession of the claimed invention (e.g., HTTP protocol) as of the filing date of the specification. Further, HTTP is described on page 3, lines 6-14, page 8, lines 16-21, and page 9, lines 19-23 in the specification. In any event, as described above, claim 1 was amended to remove the phrase "*via HTTP protocol*" to broaden the claim.

In paragraph 8, the Examiner took issue with the use of "representation mode". Claim 1 has been amended to address this issue and is supported by page 2, line 23-page 3, line 8 of the specification.

Accordingly, for the reasons discussed above, withdrawal of the claim rejections under 35 U.S.C. § 112, first paragraph is respectfully requested.

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Claim Rejections – § 112, second paragraph

Claims 1, 2, 4-6, 8-9 stand rejected under 35 U.S.C 112, second paragraph, for the reasons forth on pages 5-8 of the Office Action. With regard to claim 1, the Examiner contended that essential structural cooperative relationships were omitted. Each of the structural relationships that the Examiner took issue with are addressed below.

In paragraph 12, the Examiner stated that the "*service-platform interface is never claimed as interacting with any of the other claim elements so it is unclear what its purpose is for being claimed*" and it "*is only mentioned in the claims so it cannot be interpreted in light of the specification.*" These assertions are incorrect. Line 13, page 6 of the specification inadvertently swapped the terms 'platform' and 'service' resulting in "platform-service interface" instead of the intended "service-platform interface". The specification has been amended to address this issue. On page 6, lines 12-14 of the specification, the "service-platform interface" is defined to be the service abstraction layer or SAL, and clearly interacts with claim elements as illustrated in FIG. 1.

In paragraph 13, the Examiner stated that "*[a] second platform kernel section is defined in the final limitation of claim 1*" and "*[i]t is unclear whether this second platform kernel section is intended to be the same as the previously mentioned platform kernel section.*" Claim 1 has been amended to address this issue.

In paragraph 14, the Examiner stated that "*the platform kernel section provides one of a synchronized and an asynchronized service engine*", but "it is completely unclear how the asynchronized service engine works or how it relates [to] the synchronized engine." These assertions are incorrect because there is disclosure (in page 3, lines 15-20) in the

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specification of the kernel service engine. Additionally, at the time of the invention it was known in the art that asynchronous services are characterized by a client invoking a service but lacking the ability to wait for the response, whereas synchronous services are characterized by the client invoking a service and then waiting for a response. Further, FIG. 1 shows that the asynchronized service engine does not have to work with the synchronized service engine.

In paragraph 15, the Examiner stated that claim 1 lacks antecedent basis for the limitation of "the adapter for transforming between service responses issued by the services and the XML response." As rationale, the Examiner stated that *"because the XML responses are only previously claimed as being sent to the device specific-platform interface so it is unclear how they could then be transformed at the service-platform interface."* This assertion is incorrect because claim 1 recites, inter alia, *"sending the XML requests to a platform kernel section"* and <u>not</u> sending XML responses. Furthermore, claim 1 recites *inter alia, "XML responses which are returned by the platform kernel section"* and FIG. 1 shows a bi-directional arrow labeled XML between the service-platform interface and the platform kernel section. Therefore, claim 1 does not lack antecedent basis. This claim has dual support for the reasons give above.

In paragraph 16, with regard to claims 2 and 5, the Examiner stated that *"claims 2 and 5 recite the limitations the user information, the device information, and the service information"* and there *"is insufficient antecedent basis for this limitation."* However, claims 2 and 5 depend on base claim 1, which recites *inter alia, "wherein the platform kernel section is for managing user information, device information and service information"*. Therefore, claims 2 and 5 do not lack antecedent basis.

In paragraph 17, the examiner stated that claim 4 is rejected because "*it is unclear how a request can be based on a queue.*" At the time of the invention, it was known in the art that when a request is based on a queue or is queue-based, the requests may be handled or managed by a queue. Claim 4 has been amended to recite *inter alia, "asynchronized requests managed by a queue"* merely to clarify, and does not add new matter as FIG.1 illustrates the service engine comprises a queue manager.

In paragraph 18, the Examiner stated that "*said device information*" lacks antecedent basis in claim 6. However, there is sufficient antecedent basis because claim 6 depends on base claim 1, which recites *inter alia, "wherein the platform kernel section is for managing user information, device information and service information"*.

In paragraph 19 the Examiner stated that "*said device information*" lacks antecedent basis in claim 8. However, there is sufficient antecedent basis because claim 8 depends from base claim 1, which recites *inter alia, "wherein the platform kernel section is for managing user information, device information and service information"*.

In paragraph 20, the Examiner stated that "the back-end of the platform" lacks antecedent basis in claim 8. Claim 8 has been amended to address this issue.

In paragraph 21, the Examiner stated that "said service information" lacks antecedent basis in claim 9. However, there is sufficient antecedent basis because claim 9 depends from base claim 1, which recites *inter alia, "wherein the platform kernel section is for managing user information, device information and service information"*.

In paragraph 22, the Examiner stated that "the front-end of the platform" lacks antecedent basis in claim 9. Claim 9 has been amended to address this issue.

Claim Objections – 1.75(d)

The Examiner stated that *"claim 3 is objected to as failing to comply with Rule 1.75(d)"* because the *"specification provides no antecedent basis for platform run-status manager."* Claim 3 has been amended to address this issue.

The Examiner further stated that *"claim 4 is objected to as failing to comply with Rule 1.75(d)"* because the *"specification provides no antecedent basis for asynchronous requests based on a queue."* It should be noted that claims as originally filed are part of the disclosure. Claim 4 has been added to the specification to address this issue.

The Examiner also stated that *"claim 6 is objected to as failing to comply with Rule 1.75(d)"* because the *"specification provides no antecedent basis for transforming the XML responses into a file format or transforming among communication protocols based on script languages of the devices."* It should be noted that claims as originally filed are part of the disclosure. Claim 6 has been added to the specification to address this issue.

Claim Rejections - § 102

(1) Claims 1-2, 4,6, and 8-9 stand rejected under 35 U.S.C 102(e) as being anticipated by Lonnroth (U.S. Pat. 6826597). It is respectfully submitted that Lonnroth is legally deficient to establish a *prima facie* case of anticipation against claims 1-2, 4,6, and 8-9 for at least the reasons cited in the prior Appeal Brief.

For example, the Examiner incorrectly relies on col. 3, line 61-col. 4, lines 26 of Lonnroth as disclosing "transforming the device requests into XML requests," as claimed in claim 1. Lonnroth at col. 4, lines 7-10 states that "preprocessor 240 receives requests and [sic] from clients and generates request objects based thereon." Looking at Figure 2 of

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Lonnroth, the preprocessor (240) receives the data from three sources: (a) over HTTP from the gateway (202), (b) over PROTOCOL A from client (272) and (c) over PROTOCOL B from client (270).

Assuming, *arguendo*, that the WAP phone (210) of Lonnroth is capable of issuing the claimed "device request," then the request will *necessarily* be a WAP request because the WAP phone (210) is a WAP-enabled device. However, the preprocessor (240) would not receive the WAP requests directly from the WAP phone (210). Instead, the preprocessor (240) would receive an *HTTP request*, converted from the original WAP request, from the gateway (202). Lonnroth at col. 5, lines 18-21 expressly supports the above conclusion: "Through its support for HTTP requests, pre-processor 240 appears as a web server to gateway 202, and is therefore *able to receive HTTP requests that originated as WAP requests issued from WAP-enabled devices*."

At best, Lonnroth may be interpreted as receiving WAP requests from the WAP-enabled device and converting the WAP requests to an HTTP request. Not until the pre-processor (240) generates the request objects from the *HTTP requests* (*not* the WAP requests) does Lonnroth mention XML documents (see Lonnroth at col. 4, lines 7-10). Thus, Lonnroth does *not* disclose "a device-platform interface, for *accepting device requests* issued by devices...[and] *transforming the device requests into XML requests*."

Accordingly, claim 1 is not anticipated by Lonnroth. Moreover, claims 2, 4, 6 and 8-9 are patentable over Lonnroth at least by virtue of their dependence from claim 1.

(2) Claims 1-6 and 8-9 stand rejected under 35 U.S.C 102(e) as being anticipated by Humpleman (U.S. Pat. 6546419). It is respectfully submitted that Humpleman is legally

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deficient to establish a *prima facie* case of anticipation against claims 1-6, and 8-9 At the very least, Humpleman does not anticipate claim 1.

By way of example, with respect to claim 1, it is submitted that Humpleman does not disclose or suggest "*a device-platform interface, for accepting device requests issued by devices wherein said device requests are in a device specific format, transforming the device requests into XML requests and then sending the XML requests to a platform kernel section via HTTP protocol*", as recited *inter alia* in claim 1.

The Examiner contends that Humpleman teaches (in col. 19, line 39-col. 20, line 48) "*a device-platform interface, for accepting device requests issued by devices wherein said device requests are in a representation mode which is adapted for the devices, transforming the device requests into XML requests and then sending the XML requests to a platform kernel section via HTTP protocol.*" It is respectfully submitted that Examiner's characterization of the teachings of Humpleman is misplaced. Humpleman teaches (in col. 19, lines 39-45) a database of device interfaces stored in a database in XML where new interfaces can be added to the database and (in col. 20, lines 4-10) transferring one of these device interfaces from one device to another. However this is not the same as accepting device requests and transforming the device requests into XML requests. Even assuming *arguendo*, that a device interface could be interpreted as a device request, Humpleman teaches (in col. 19, lines 39-45) that the interfaces already begin in XML, so there would be no need to do a transformation of a device request from a device specific format into an XML response, as essentially recited in claim 1.

By further example, with respect to claim 1, it is submitted that Humpleman also does not disclose or suggest "*platform kernel section... providing one of a synchronized*

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and an asynchronized service engine", as recited *inter alia* in claim 1. The Examiner

contends that <u>Humpleman</u> teaches (in col. 19, line 39-col. 20, line 48) *"platform kernel*

section... providing one of a synchronized and an asynchronized service engine." It is

respectfully submitted that Examiner's characterization of the teachings of <u>Humpleman</u> is

misplaced. The terms synchronous or synchronized do not even appear within

<u>Humpleman</u>.

Accordingly, claim 1 is not anticipated by <u>Humpleman</u>. Moreover, claims 2-6, and

8-10 are patentable over <u>Humpleman</u> at least by virtue of their dependence from claim 1.

Claim Rejections - § 103

Claims 3 and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over

<u>Lonnroth,</u> as set forth on page 11 of the Office Action. Applicants respectfully submit that

<u>Lonnroth</u> is legally deficient to establish a *prima facie* case of obviousness against claims 3

and 5 for at least the reasons presented in the Appeal Brief.

For example, the Examiner's reasoning that if a product is available for purchase,

then it must be well known and obvious to use is flawed. Claims must be viewed in their

entirety. By focusing on an individual claim term and determining that it is available for

purchase, the Examiner effectively and improperly eliminations interpreting the claim as a

whole. Further, whether a claim term is available for purchase or is well known does not

make it obvious to use. For example, a claimed invention may be a novel combination of

well known components. Under the Examiner's flawed interpretation, he would consider

such a novel combination to be obvious. This is clearly improper.

Accordingly, the rejection of claims 3 and 5 should be reversed.

In view of the foregoing remarks, it is respectfully submitted that all the claims now pending in the application are in condition for allowance. Early and favorable reconsideration is respectfully requested.

Respectfully submitted,

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